

#15

Via Facsimile (703)-308-6916, Attn: Office of Petitions**Studien 262-KGB
Zi/D****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****APPLICANTS : WILLIAM F. MAIER****SERIAL NO. : 09/254,525****FILED : March 8, 1999****FOR : USE OF MICROPOROUS INORGANIC MEMBRANE
CATALYSTS****ART UNIT : 1754****EXAMINER : S. Hendrickson**

RECEIVED

FEB 19 2003

February 19, 2003**Hon. Commissioner of Patents
Box DAC
Washington, D.C. 20231****RENEWED PETITION UNDER 37 CFR § 1.181(a)
TO WITHDRAW HOLDING OF ABANDONMENT****SIR:**

Applicant filed an original petition on August 12, 2002, to have withdrawn the holding that the above-identified application was abandoned. The Decision on Petition mailed December 19, 2002, dismisses Applicant's petition as being insufficient. Applicant now renews his petition to have the holding of abandonment withdrawn.

According to the Decision on Petitions, the application was abandoned for failure to reply to a "final Office action mailed August 10, 2001, which set a shortened statutory period for reply of three (3) months," which means that the reply was due on November 10, 2001.

WILLIAM F. MAIER
USSN 09/254,525

According to the Decision on Petitions, Applicant has submitted a copy of the docket card for the associated file, and had stated that "if the Final Rejection had been received in the offices of the undersigned, it would have been noted on the docket card," but "the submitted docket card associated with the instant file [because it does not show all incoming mail received during the relevant time period] fails to show the correspondence at issue was not received, and merely misplaced and filed with another file."

However, the Decision on Petitions for some reason does not discuss the second piece of evidence submitted with the original petition, namely the copy of the **docket report** for November 10, 2001, which was submitted along with the original petition as Exhibit 2. Attached as Exhibit 3 is a copy of the acknowledged postcard showing the receipt of Exhibit 2 in the Patent Office mail room on August 12, 2002, along with the original petition and Exhibit 1. The Decision on Petitions confirms that a reply to the final Office action was due on November 10, 2001. Accordingly, the docket report for November 10, 2001, is, in fact, the relevant docket report.

As is confirmed in the accompanying Declaration of Nanci Manfredi (Exhibit 4), during the time in question, **all** incoming Patent Office mail was handled by her, and docketed by her on the docket report for the appropriate due date. The docket report for November 10, 2001, shows that Office Actions requiring responses on November 10, 2001, were received in connection with **nine** different applications. Consequently, unlike the docket card, which is emphasized in the Decision on Petitions, the docket report is not limited to a particular application, and lists **all** applications for which incoming mail has been received requiring a response on the date of the docket report. If the Office Action

WILLIAM F. MAIER
USSN 09/254,525

mailed on August 10, 2001, in connection with U.S. Serial No. 09/254,525 (our internal docket reference Studien 262), had been received in the offices of the undersigned, it would have been listed on the docket report for November 10, 2001. The fact that it was not listed on the docket report for November 10, 2001, confirms that the Office Action was not received in the offices of the undersigned.

Ms. Manfredi avers that she has checked all of the docket reports from August 10, 2001, through February 10, 2002, and the Office Action at issue is not listed on any of these reports, again, confirming that the Office Action was not received in the offices of the undersigned.

Referring again to *Manual of Patent Examining Procedure (MPEP)* § 711.03(c)(II), the requirements for this petition were:

“The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner’s statement.”

In compliance with MPEP § 711.03(c)(II), the undersigned previously confirmed that:

- 1) The Final Rejection was not received in the offices of the

WILLIAM F. MAIER
USSN 09/254,525

undersigned; and

- 2) A search of the file jacket and docket records indicated that the Final Rejection was not received in the offices of the undersigned.

Although the Decision on Petitions indicated that there **should** be some other type of record, Applicants did, in fact, submit copies of "the docket record where the nonreceived Office communication would have been entered had it been received and docketed." In fact, Applicants submitted copies of the **two** docket records where the nonreceived Office communication would have been entered, namely the docket card and the docket report. As Ms. Manfredi avers, there are no other records where the nonreceived Office communication would have been entered.

In view of the foregoing, Applicant submits that the published requirements for grant of this petition have been met. Therefore, Applicant respectfully requests that the Commissioner reconsider the Decision on Petition, and withdraw the holding of abandonment, and remail the Office Action dated August 10, 2001.

Finally, the undersigned notes that the original petition was a "form" petition and the evidence submitted was "form" evidence ordinarily submitted with the form petition, and such form petition and form evidence have been accepted by the Patent Office in every single prior case where submitted, and the number of prior cases is more than five.

Again, it may be that the Patent Office records have not been updated to include the current address of the undersigned, which is:

WILLIAM F. MAIER
USSN 09/254,525

Kurt G. Briscoe
Norris McLaughlin & Marcus, P.A.
220 East 42nd Street
30th Floor
New York, New York 10017
Telephone: (212) 808-0700
Fax: (212) 808-0844
Email: kgbriscoe@nmmlaw.com

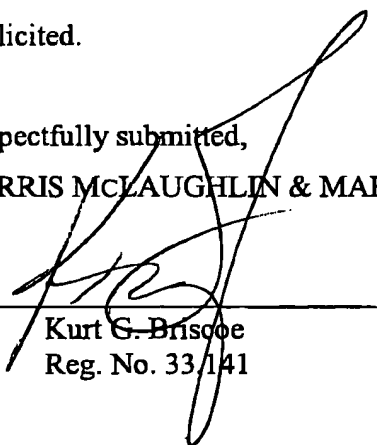
A Notice of Change of Address was mailed on March 28, 2002, and the Office Action dated August 10, 2001, likely was sent to the **wrong** address.

In case the Patent Office records have not been updated to include the current address of the undersigned, Applicant respectfully requests that the Patent Office records be updated now.

Early and favorable action is earnestly solicited.

Respectfully submitted,
NORRIS McLAUGHLIN & MARCUS

By


Kurt G. Briscoe
Reg. No. 33,141

220 East 42nd Street
30th Floor
New York, New York 10017
Phone: (212) 808-0700
Fax: (212) 808-0700

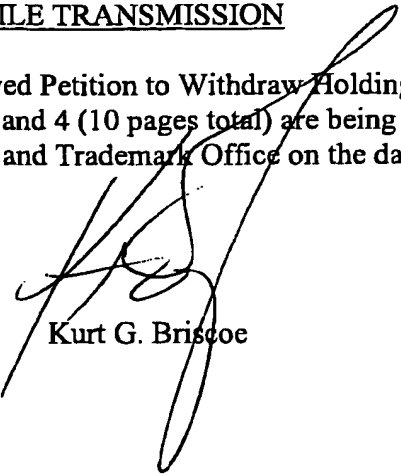
WILLIAM F. MAIER
USSN 09/254,525

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing Renewed Petition to Withdraw Holding of Abandonment and the accompanying Exhibits 3 and 4 (10 pages total) are being facsimile transmitted to the United States Patent and Trademark Office on the date indicated below:

Date: February 19, 2003

By


Kurt G. Briscoe